

**Minutes of:** Joint Meeting of Milpitas City Council,  
Successor Agency to Milpitas RDA and  
Economic Development Corporation

**Date:** Tuesday, March 4, 2014

**Time:** 6:00 PM Closed Session / 7:00 PM Open

**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

Mayor Esteves called the meeting to order at 6:00 PM. The City Clerk noted the roll.

**ABSENT:** None

City Council convened in Closed Session to discuss litigation and labor negotiations.

City Council then convened in Open Session at 7:12 PM.

None out of Closed Session.

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

Councilmember Giordano read a quote from John Jay to start the meeting.

**Motion:** to approve the minutes of February 18, 2014 City Council meeting, with one change

Councilmember Montano referred to a question she asked, on page 6 of the draft minutes regarding agenda item no. 12, about funds. She intended to refer to Transit Area Specific Plan-related Transit Area Development Impact Fees, not the hotel tax as noted.

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5  
NOES: 0

Motion: to approve the Council Calendar/Schedule of Meetings for March 2014, as submitted

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5  
NOES: 0

**Robert Marini**, Milpitas resident, referred to meetings with City staff that he had attended regarding calculations of utility fees.

**David Fehlberg**, a View Drive resident, complained about a long-standing noise problem on his street, due to his neighbors' creating noise during the day by playing the drums. His family had endured thousands of hours of noise, called the police many times, wrote to the City Manager to seek help, dealt with Code Enforcement staff, and a Community Relations officer was sent to

negotiate an agreement. He wanted the man who played drums to be reined in and not continue to disturb neighbors during daytime hours.

Councilmember Giordano responded, explaining she had talked with the resident and e-mailed the Mayor about his issue. Maybe the City Council could review the noise ordinance in its entirety, she suggested. Councilmember Gomez responded the Council might take a look at San Jose's ordinance for disturbing the peace.

**Seema**, a woman resident and business owner, asked about programs to support small businesses. She had her own business in Milpitas, and was looking for programs to help her succeed in Milpitas, as a minority-owned and woman-owned business.

**Jeff S**, lived in Milpitas for 44 years and spoke about tennis courts on Yellowstone, where he liked to play. Other sports were also played there, including some Olympic sports. He proposed the City should build a complex underneath the tennis courts, to offer ping pong and badminton, also.

## **ANNOUNCEMENTS**

Councilmember Montano attended a recent Santa Clara Valley Water District meeting last month, regarding committees and restructuring. The district had many programs for rebates toward water conservation. She inquired further about use of gray water, at her home, and sought to find out from City staff what the costs would be at her home to implement that water use.

Mayor Esteves announced the Youth Advisory Commission was seeking donations of gently used youth sports equipment, to benefits sports groups and teams in Milpitas.

## **ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

City Attorney Ogaz asked City Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts or contributions were reported.

## **APPROVAL OF AGENDA**

Motion: to approve the agenda as submitted

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 5  
NOES: 0

## **CONSENT CALENDAR**

Motion: to approve the Consent Calendar (items noted with \*asterisk)

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5  
NOES: 0

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| * 2. Odor Report  | Received the monthly odor update report.   |
| * 3. Commission Appointment                             | Confirmed Mayor's recommendation and appointed Anh Bao to the Telecommunications Commission as Alternate No. 2.  |
| * 4. Adopt Ordinance No. 65.143                         | Waived the second reading and adopted Ordinance No. 65.143 for minor corrections to the Building Code.   |
| * 5. Adopt Ordinance No. 208.49                         | Waived the second reading and adopted Ordinance No. 208.49 to repeal and replace Title VIII, Chapter VIII-2 of the Milpitas Sanitary Code.   |
| * 6. Resolution for Avoid the 13 grant funds for Police | 1. Adopted Resolution No. 8346 authorizing the Police Chief to execute the agreement with Santa Clara County for the 2014 "Avoid the 13" grant program.<br>2. Approved a budget appropriation in the amount of \$8,000 to the Police Department overtime budget, per receipt of the grant funds. |

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| <p>* 7. Resolution to Award Bid to S&amp;H Construction Inc.</p> | <ol style="list-style-type: none"> <li>1. Adopted Resolution No. 8347 authorizing the City Manager to award and execute a construction contract with S &amp; H Construction, Inc. for the Milpitas Sports Center Locker Room Renovation, Project No. 3408, in the amount of \$898,600.</li> <li>2. Authorized the Director of Public Works to negotiate and execute change order(s) for Milpitas Sports Center Locker Room Renovation in the cumulative contingency amount not to exceed \$100,000 for the project.</li> <li>3. Approved a budget appropriation in the amount of \$800,000 from General Government CIP fund to the Milpitas Sports Center Locker Room Renovation Project No. 3408.</li> </ol> |
| <p>* 8. Pay Invoices for Repairs to Swimming Pool Boilers</p>    | <p>Received the Public Works Director's report of emergency repair of the Milpitas Sports Center swimming pool boilers, Project No. 3406, and authorized city staff to pay invoices for this work.</p>  |
| <p>* 9. Authorize Annual Payment to CRW for Support</p>          | <p>Authorized payment to CRW Systems, Inc. for annual technical support and software maintenance services for the not-to-exceed amount of \$22,000.</p>   |

## PUBLIC HEARING

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| <p>1. Update on the Transit Area Development Impact Fee</p> | <p>Planning Director Steve McHarris discussed the established Transit Area Development Impact Fee (TADIF) for the Transit Area Specific Plan projects. The fee was required to be reviewed every year or two, and at this meeting was proposed to be slightly increased to cover anticipated costs for public improvements in that area of the city under development. The residential TADIF per unit-fee would be increased by \$2,260 over the current \$30,000 amount.</p> <p>Councilmember Gomez inquired about outreach staff had done to the development community, and Mr. McHarris responded with efforts his office had made to notify developers by mail and by direct contact with staff when developers were present at City Hall regarding their projects.</p> <p>Vice Mayor Polanski asked for explanation of what the fees were used to benefit. Staff explained the funds were used on public infrastructure for items such as public streets, signs, light fixtures, medians, parks, utility undergrounding of lines, etc.</p> <p>Mayor Esteves inquired about the established Community Facilities District and wanted to confirm these fees discussed were in addition to CFD money. Mr. McHarris replied yes, the TADIF was applicable to new developments, at the time building permits were issued.</p> <p>Councilmember Gomez inquired why this needed to be an urgency action. Mr. McHarris deferred to remarks from the City's consultant, Mr. Tapa Banda, an economist from EPS Consultants, who explained the approach to calculating and appropriately allocating fees to cover the known and anticipated costs for the needed infrastructure.</p> <p>Next, the Mayor opened the public hearing.</p> <p><b>Robert Marini</b>, Milpitas resident, said when the fee applied to a process or service, the City needed to identify the fee to the public. He wanted water and sewer fees on the agenda, stating new fees should be on the website for public's understanding.</p> <p><b>Jim Sullivan</b>, president of Sullivan Land Development, did receive a well written letter from City staff about these fee changes. He had followed up with the Planning Director and talked to him, asking when the new fee would be effective. In a yearly review, he noted that 600 units fewer were being built in the Transit Area than planned, with a change in the density average, units/acre. He suggested it would be nice to separate smaller units from larger, less dense homes when considering the difference in fees.</p> <p><b>Jeff S</b>, Milpitas resident, inquired about fixing up parks in Milpitas. He asked if the fee discussed for all parks or just new ones going in. He suggested that more tennis courts getting built would be nice.</p> |
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(1) Motion: to close the public hearing, after receiving comments

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES : 0

Councilmember Gomez said there were different things you could do, with different size homes. He would not support this rate increase right now.

Vice Mayor Polanski asked if the City had looked at a tiered plan for the densities in the Transit Area. Mr. McHarris said he took a quick look at that, and it depended on how you look at fees philosophically. The fairest way was to impose fees, as currently applied, and that method continued to be supported.

Councilmember Giordano was in agreement with the fee structure, and she was especially pleased to hear from Mr. Sullivan at the public hearing.

(2) Motion: to adopt Resolution No. 8344 adjusting the existing Transit Area Development Impact Fee for Public Infrastructure and Improvements, effective in 60 days

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 4  
NOES: 1 (Gomez)

(3) Motion: to adopt Resolution No. 8345, an urgency resolution adjusting the existing Transit Area Development Impact Fee for Public Infrastructure and Improvements, effective immediately per California Government Code Section 66017

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 4  
NOES: 1 (Gomez)

Next, City Attorney Ogaz read aloud the title of Ordinance No. 277.1, "An Ordinance of the City Council of the City of Milpitas Amending Chapter 4 of Title VIII of the Milpitas Municipal Code Relating to Fees for New Development."

(4) Motion: to waive the first reading beyond the title of Ordinance No. 277.1

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5  
NOES: 0

(5) Motion: to introduce the Ordinance No. 277.1

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 4  
NOES: 1 (Gomez)

## **JOINT MEETING**

### **1. CALL TO ORDER**

Mayor/Chair Esteves called to order the joint meeting of the City Council, Successor Agency to the Redevelopment Agency and the Economic Development Corporation at 8:08 PM, with all five members present.

**2. Approval of Agenda and Consent Calendar**

**Motion:** to approve the agenda for the joint meeting

City Manager Tom Williams requested removing the one item from the consent calendar, for an oral report.

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5  
NOES: 0

**3. Consider Terminating Standstill Agreement**

City Manager Tom Williams explained that the request to terminate the current existing “standstill” agreement was placed on the agenda due to various factors. He provided recent history behind actions of several government entities, including the Milpitas Oversight Board.

On this date, the City had received a letter to the City Council from legal counsel to the Oversight Board requesting that the City entities not take any action, as recommended on the agenda. The City Manager suggested the City Council honor the request, and the matter may be continued to a date in the future if needed.

Councilmember Gomez commented on land uses, including the continuing need for a school in the Transit Area Specific Plan area, in the south end of Milpitas.

Vice Mayor Polanski remarked on ongoing litigation that was pending between the County and the City and other agencies. She asked when was the case with the County going to be heard in court and the City Attorney replied, it was scheduled on June 24.

Councilmember Giordano inquired what role Supervisor Dave Cortese played in these meetings and whether he had been helpful. Mr. Williams replied, in government there had in general been lots of talk about communication and transparency. However, Mr. Cortese was “missing in action;” while City staff and officials tried to reach out, the Supervisor refused to meet with staff and had offered no help. There was a lack of partnership displayed, the City Manager felt.

Mayor Esteves noted that he wanted to see a new park built as soon as possible.

Mayor Esteves invited audience members to comment.

**Jeff S**, a Milpitas resident, appreciated that the hills in Milpitas were not built upon. What they (City Council) did affected all the residents, and he appreciated the Council and what they did.

**Motion:** to not terminate the Standstill Agreement agreed upon in 2013 by the City of Milpitas, the Successor Agency to the former Milpitas Redevelopment Agency, the Milpitas Economic Development Corporation and the Milpitas Oversight Board, and to continue this topic to a date uncertain

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 4  
NOES: 1 (Gomez)

**ADJOURNMENT**

Mayor/Chair Esteves adjourned the joint meeting of all agencies at 8:25 PM.

*Meeting minutes respectfully submitted by  
Mary Lavelle, City Clerk*